

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2013 SEP 9 PM 4:32
CIVIL ACTION NO. 13-11

DERRICK SZKLARZ
PLAINTIFF

v.s.

HOTWIRE.COM, as a
Subsidiary of EXPEDIA.COM

DEFENDANTS

COMPLAINT

PARTIES & JURISDICTION

1. The Plaintiff in this matter, Derrick Szklarz, is an individual with a residential address of 40 Thompson Pond Road Spencer, MA 01562 & Mailing address of 11 Pleasant Street Suite 120, Worcester, MA 01609
2. The Defendant, Hotwire.com, is a corporate entity existing under the laws of the State of Delaware, with a corporate address of 655 Montgomery Street, Ste 600, San Francisco, CA 94111.
3. This action falls within the jurisdiction of the United States District Court as it involves diversity of citizenship and is properly within the specific jurisdiction of the Federal Court for the District of Massachusetts as the resident state of the Plaintiff.

FACTS

4. The Plaintiff repeats and realleges the statements made in paragraphs 1 through 3.
5. On July 27th 2013 @ approximately 8 PM Eastern Standard Time, I Derrick Daniel Szklarz began searching for an "All Inclusive Vacation" for myself and my travel companion Kristen Perry. Our desired destination was to Saint Thomas United States Virgin Islands. I booked with Hotwire on 07/27/2013 and received an itinerary confirmation reference **11717279858 @ 07/27/2013 @ 8:42pm Eastern Standard Time for the above mentioned destination.** When booking my trip via the Hotwire Website I clicked "all inclusive" on one page. The next page started loading and there were the options. There were different options in regards to the view. I chose the cheapest available. The view was a garden view. After booking I got on the phone with Hotwire making sure that it was an all inclusive deal. I, Derrick D Szklarz spoke with a representative from Hotwire confirming it was all inclusive. She did so not only to me but Kristen

Perry (other traveler) as well. The call was on speaker phone. To double check I had the representative from Hotwire call the reservation representative at the **Marriott Frenchman's Reef and Morning Star Beach Resort (St. Thomas USVI)** and she stated and I quote **"we honor all, all inclusive trips booked through hotwire"**. The Representative @ the resort stated the restaurants and bars that we could and could not eat at. She stated I have noted in the account you are "all set."

During the first week of August I started to prepare for our trip. I contacted the Marriot and spoke again to a representative. She stated your reservations are all set for the 21st and checkout on the 27th and that the trip was for two adults with a garden view and that it was "NOT All Inclusive." I immediately asked for management. I spoke with Ms. Alicia Blackmon on that day. She confirmed that, no this was not an all inclusive as well. So I asked her to log on to the Hotwire website and duplicate how I booked the trip. We did together Alicia and I chose Boston to Saint Thomas (departure the 21st and checkout the 27th), clicked all inclusive options available. The website loaded up and the first one that showed was the Marriot – we together at the same time via phone went step by step. She was amazed and paused and then stated that she would get back to me the following day. As promised she did indeed contact me and stated that there 100% was an issue with the layout with the website and that she was in contact with Ms. Laura Fitzpatrick. Ms. Fitzpatrick as told to me is a marketing account executive with Hotwire who works with the different hotels. I told Ms. Blackmon, should I cancel this trip? She stated in her opinion Hotwire would correct their mistake. I asked Ms. Blackmon if I could have her Ms. Fitzpatrick's email. She gladly gave it to me. I sent the email to Ms. Fitzpatrick on Wednesday, August 14, 2013 12:26 PM: email lfitzpatrick@hotwire.com . I have never heard back to this day. I carbon copied the Manager Ms. Blackmon @ the Marriot.

Fri @ 8/16/2013 11:15 AM I entered the website for Hotwire to try and get in touch with someone who had an answer. Thursday 8/15/2013 3:54 PM I got an email from support_vacation@hotwire.com. Someone would reach out to me from Hotwire. That person was Malcom from corporate – no last name given and not on the answering machine either. I have saved the voicemail. He called me within two days. My case # with Hotwire Corporate is or was 060996. He stated to call him back on a voicemail only line. I did, I left a message and he did call back. He was apologetic offered @ \$75.00 per person credit for each day and night we stayed – he stated "make sure you save your receipts" this was unacceptable to me. I asked if he could either cancel the trip or find another hotel with the all inclusive. He seemed very motivated to resolve this issue. He gave me options at the Bolongo Bay and Sugar Bay Resorts. This was the week I was to propose to my future wife. I needed my credibility with Ms. Kristen Perry to me top notch. I had planned this and saved for 2years for my ring and our special week. I absolutely dreaded the conversation that would ensue with her. I felt so horrible and insecure; I did everything in my power to make sure this trip

was near perfect. So the day came when I felt it was time to break the news. I decided to check with Ms. Kristen Perry to see what she preferred. To reiterate the Ms. Kristen Perry has no clue what is going on behind the scenes she was as convinced as I that this was "all set" making this even more stressful. I let her know what was going on and she was flabbergasted and I could barely get a word in. I proposed the idea to Ms. Kristen Perry she stated to cancel the whole thing. We fought the whole evening. I called Malcom @ Hotwire corporate back and left a message. I never heard back from him again. My follow up came with I Derrick D Szklarz, Kristen Perry and My attorney Chris Panagiotidis on August 18th 1 and half hours on hold for a Mr. Eric – these folks @ corporate will not give their last names? I told Eric that my attorney was listening in on the line. At that point he boldly stated that I needed to hang up and that this was not allowed. He stated if there was an attorney present he would have to have one as well. I stressed to him I will have him leave. Eric was still hesitant, so I accommodated his request and Mr. Panagiotidis left. This is what took place. Eric was stern right from the get go stating that there is nothing Hotwire could do and you that the Marriot is not an all inclusive resort – but does have an all inclusive package but not @ the price you booked at. I told Eric this makes no sense. Keep in mind Kristen Perry will testify to Eric's explanation. Eric went on to state that the all inclusive is tied in with the "room view," I asked Eric, what does the room have to do with what I eat and drink? I asked how in the world did I get Ms. Laura Fitzpatrick from marketing's email. I asked why did Malcom from your office contact me with different options? Why is that option off the table? Why when one chooses "all inclusive does the Marriot pop up with a room view and the only charge extra is for a better view? Why was Alicia Blackmon (Marriot) working vigorously with Ms. Fitzpatrick to resolve this issue. He stated he found a way to navigate to the correct place to book the trip. I very simply stated are you going to do the right thing in this moment? He stated all I can do is give a \$200.00 credit but for that you will have to sign a "settlement form." And then I would get a check back. At this point the stress and disappointment became so unbearable, that I Derrick Szklarz stated to Eric that I will file a complaint through the proper channels to seek the appropriate remedy.

I have emails, I have phone records, I have video of me navigating through the site, eight individuals attempted to book the same trip and all came to the same conclusion that the layout of the website is incorrect and misleading. In fact my Mother Dr. Carmela Szklarz and Brother, Cory Szklarz had intentions of booking @ the same resort. I asked them not to because I would rather be @ a resort with my companion alone. To note on the trip, I met others who were there on "all inclusive deals." These individuals booked through different sites that did not mislead their potential clients.

I did nothing in error or wrong. I simply followed the prompts of your website. Your error cost me approximately \$3950.00 in food and beverages in addition to the trip. The trip was tainted the entire time. I was formally going to propose to Ms. Perry that never happened. Ms. Kristen Perry has one week a year to

vacation. This was completely miserable and I feel like I was treated horribly. No engagement took place. With my mother's ailing health I wanted her to be involved with my proposal but unfortunately it didn't happen. I had actually looked @ Ms Perry's phone and saw a text from a friend, stating "this is the week he (I Derrick Szklarz) will propose". I tried to remedy this. I assured her I would take care of this. Hotwire made me look like a fool with their \$200.00 settlement. All I wanted was them to remedy the situation, that's all. The trip from hell this was.

Here we were, leaving on the trip 3 days later, first vacation in 20 years with family. A mother with multiple myeloma cancer joining us on the trip and skipping routine chemo therapy treatments on a different resort made this trip absolutely miserable. To add to this nightmare was the view of the parking lot and construction going on at the time of the stay.

COUNT 1 – BREACH OF CONTRACT

6. The Plaintiff repeats and realleges the statements made in paragraphs 1 through 5.

7. On July 27th 2013 the Plaintiff and the Defendant entered into a contract for services. As part of that Contract the Plaintiff paid an agreed upon sum in exchange for the proposed one week vacation, *all inclusive*, for two at the **Marriott Frenchman's Reef and Morning Star Beach Resort**.

8. The Plaintiff relied on the assertions and promises made by the Defendant.

9. The Defendant breached this contract by failing to provide an all inclusive vacation.

10. The Plaintiff has suffered significant financial loss as a result of the actions and inactions of the Defendant.

COUNT 2 – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

11. The Plaintiff repeats and realleges the statements made in paragraphs 1 through 10

12. The Plaintiff at all times relied on the promises made by the Defendant to deliver a timely vacation for two (2) at an all inclusive resort, specifically the **Marriott Frenchman's Reef and Morning Star Beach Resort**, for a total cost of \$2,106.72.

13. The Defendant breached its responsibilities and failed to deliver the vacation as promised.

14. As a result of this breach the Plaintiff incurred not only significant financial loss, but also the significant stress and distress of not knowing if his previously planned vacation would occur.

15. The distress was exacerbated due to the fact that a third party was relying on the Plaintiff to produce this agreed upon vacation. Plaintiff demands judgment in the amount of \$50,000 for negligent infliction of emotional distress plus \$3,950.00 food and beverages plus the amount of the trip \$2,106.72 (as I wanted to cancel), plus court costs and expenses and any and all remedies that the court may see fit to grant.

WHEREFORE, the Plaintiff requests that this Honorable Court find for the Plaintiff under all counts listed above.

*Respectfully Submitted,
The Plaintiff*



*Derrick Szklarz
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DATED: September 9, 2013